

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

HOWARD ACKERMAN,

Plaintiff,

vs.

STATE OF NEVADA DEPARTMENT OF
CORRECTIONS, et al.,

Defendants.

Case No. 2:11-cv-00883-GMN-PAL

ORDER

(Mtn for Consideration - Dkt. #266)
(Mtn to be Made Retroactive - Dkt. #267)

This matter is before the court on non-party Kenneth Manning's Motion for Consideration for Second Amended Motion to Terminate (Dkt. #266) and Motion to be Made Retroactive to June 24, 2013, to Terminate Common Fare from and/or at the Department of Corrections (Dkt. #267). The court has considered the Motions.

BACKGROUND

The Complaint (Dkt. #1) in this case was filed June 1, 2011. An Emergency Motion for a Temporary Restraining Order (Dkt. #4) and a Motion to Certify a Class (Dkt. #5) were also filed June 1, 2011. The district judge set the emergency motion for a temporary restraining order for hearing June 10, 2011. Minute Order in Chambers (Dkt. #7), entered June 2, 2011. The complaint and motion for a temporary protective order seek injunctive relief to prohibit the Nevada Department of Prisons from implementing a policy change that kosher diets are no longer to be provided to Jewish prisoners and prisoners of other religious faiths whose religion require them to keep kosher. Complaint (Dkt. #1) ¶ 1. The named Plaintiff, Howard Ackerman, is an Orthodox Jewish prisoner who is required to keep kosher as an essential tenet of his religion. *Id.* ¶ 2. He alleges the Department of Corrections actions violate his rights and the rights of putative class members under the Religious Land Use and Institutionalized Person Act ("RLUIPA"), 42 U.S.C. § 2000cc-1(a). *Id.*

This case has a lengthy and convoluted procedural history, which is thoroughly outlined in the district judge's Order (Dkt. #234), entered May 3, 2013. For purposes of this order, the court notes the following relevant procedural history. On May 2, 2013, the court approved a Stipulation (Dkt. #107) certifying a class action in this case. *See* Order on Stipulation (Dkt. #114). On July 26, 2012, the parties filed a Joint Motion (Dkt. #137) requesting, among other things, that the court approve a notice of settlement and schedule a fairness hearing on a proposed settlement agreement. *See* Joint Motion (Dkt. #137); Motion to Amend (Dkt. #142). The court held a fairness hearing on the proposed settlement on October 11, 2012. After the hearing, the district judge entered an Order (Dkt. #234), which rejected the parties' proposed class action settlement agreement, dissolved the injunction issued by the court, and decertified the class, finding it was no longer justified. Plaintiff filed a Motion to Reconsider (Dkt. #235), which is currently pending before the district judge.

DISCUSSION

Mr. Manning's motions argue that the proposed settlement in this case is unfair. The district judge has declined to approve the proposed settlement. Additionally, Manning asserts that he does not like the common fare menu because he has to eat rice, beans, and cereal everyday, and that other inmates receive more variety in their diets. He requests that the court "do away" with the common fare menu. The district judge decertified the class in this case and declined to approve the proposed settlement agreement. A Motion for Reconsideration is under submission. As the class has been decertified, Manning is not a party and has no standing to request the relief requested in these motions.

For these reasons,

IT IS ORDERED that Mr. Manning's Motion for Consideration (Dkt. #266) and Motion to be Made Retroactive (Dkt. #267) are DENIED.

Dated this 11th day of October, 2013.


 PEGGY A. LEEN
 UNITED STATES MAGISTRATE JUDGE